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Jeffrey Gullicksen

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EXAMINER

LI, SHI K

ART UNIT

PAPER NUMBER

2613

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/608,528	Applicant(s) GULLICKSEN ET AL.	
	Examiner Shi K. Li	Art Unit 2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1, 3, 5-9, 11 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballintine et al. (U.S. Patent 6,246,667 B1) in view of Lu (U.S. Patent 5,412,652).

Regarding claims 1, 7-9 and 15, Ballintine et al. discloses in FIG. 1 an optical network comprising a plurality of nodes. Ballintine et al. teaches in FIG. 2 controller 220 with memory for storing channel assignment. Ballintine et al. teaches in FIG. 12B and col.8, lines 33-35 that when a span failure occurs, the nodes 101 and 104, which border the cable cut, perform normal BLSR processing. Ballintine et al. teaches in col. 7, lines 46-50 that the controller checks the node traffic pattern to determine if any of the circuit need jumpering. Ballintine et al. teaches in FIG. 13B that the end nodes 102 and 104, which are the egress nodes, invoke jumper 1301 to drop traffic from the protection fiber. Ballintine et al. teaches that events described in FIG. 13, which include determining and dropping, happen after events described in FIG. 12, which are normal BLSR processing. It is also clear from FIG. 10 that the determination of whether jumper needed (step 1015) occurs after loopback setup complete (the label appears on the left branch of step 1005). The difference between Ballintine et al. is that Ballintine et al. does not teach propagating channel assignment data. Lu teaches in FIG. 3B a ring network and in FIG. 6 and FIG. 8 channel assignment table for facilitating protection. Lu teaches in col. 14, line 55 generating the ring table and in line 65 distributing/propagating the table to each network element. Lu teaches in col. 6, line 5 that the distribution can use any standard communication

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protocols. In particular, Lu uses overhead and X.25 as examples (see col. 7, lines 1-6). One of ordinary skill in the art would have been motivated to combine the teaching of Lu with the optical network of Ballintine et al. because the channel assignment table facilitates protection switching. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to distribute channel assignment table, as taught by Lu, in the optical network of Ballintine et al. because the channel assignment table facilitates protection switching.

Regarding claims 3 and 11, Ballintine et al. teaches in col. 3, lines 35-45 SDH digital signal which supports time division multiplexed channels.

Regarding claims 5 and 13, Ballintine et al. teaches in FIG. 10 steps 1001 and 1003 K-bytes for notifying failure.

Regarding claims 6 and 14, Ballintine et al. teaches in FIG. 1 a ring network.

3. Claims 2, 4, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballintine et al. and Lu as applied to claims 1, 3, 5-9, 11 and 13-15 above, and further in view of De Girolamo et al. (U.S. Patent 7,054,558 B2).

Ballintine et al. and Lu have been discussed above in regard to claim 1, 3, 5-9, 11 and 13-15. The difference between Ballintine et al. and Lu and the claimed invention is that Ballintine et al. and Lu do not teach WDM. However, WDM technology is well known in the art. With WDM technology, a plurality of wavelength channels is carried within a single fiber and transmission capacity is dramatically increased. For example, De Girolamo et al. teaches in FIG. 1 a SDH/SONET over WDM architecture where a plurality of SDH/SONET channels, each of different wavelengths, is carried in one fiber. One of ordinary skill in the art would have been motivated to combine the teaching of De Girolamo et al. with the optical network of Ballintine et

al. because SDH/SONET over WDM allows each fiber carrying many wavelength channels and provides high transmission capacity. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to use SDH/SONET over WDM, as taught by De Girolamo et al., in the optical network of Ballintine et al. because SDH/SONET over WDM allows each fiber carrying many wavelength channels and provides high transmission capacity.

Response to Arguments

4. Applicant's arguments filed 11 January 2008 have been fully considered but they are not persuasive.

5. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., no jumpering of channels is require) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

6. Applicant's other arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shi K. Li whose telephone number is 571 272-3031. The examiner can normally be reached on Monday-Friday (7:30 a.m. - 4:30 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on 571 272-3022. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

skl
20 March 2008

/Shi K. Li/
Primary Examiner, Art Unit 2613